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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ILLINOIS NATIONAL INSURANCE
COMPANY,

Plaintiff,

- against -

UNITED STATES FIDELITY AND GUARANTY,

Defendant.

Case No.: 07 Civ. 8248 (JFK)

**REPLY DECLARATION OF YOAV M.
GRIVER IN OPPOSITION TO
DEFENDANT'S CROSS-MOTION
FOR AN INDEFINITE STAY AND IN
FURTHER SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

STATE OF NEW YORK,
COUNTY OF NEW YORK.

YOAV M. GRIVER, pursuant to 28 U.S.C. § 1746 and under the penalties of perjury, declares as follows:

1. I am an attorney and a member of the law firm of Zeichner Ellman & Krause LLP, attorneys for plaintiff Illinois National Insurance Company ("Illinois National") in this action.
2. I make this declaration in opposition to defendant United States Fidelity And Guaranty's ("USF&G's") "cross-motion" for an indefinite stay, and in further support of Illinois National's motion for summary judgment against USF&G.
3. By their cross-motion, USF&G seeks an Order staying this action (the "Action") pending resolution of an arbitration (the "Arbitration") between another AIG entity, National Union Fire Insurance Company of Pittsburgh, PA ("National Union"), and Petrocelli

Electric Co., Inc. ("Petrocelli"). See Notice of Cross-Motion. This declaration is provided to apprise the Court of the current status of the Action and the Arbitration.

The Action

4. Issue has been joined. The Action was commenced on September 21, 2007. By the sole count of its complaint (breach of contract), Illinois National seeks enforcement of, and recovery pursuant to, the plain language of Bond No. KF 5673 (the "Bond"). Issue was joined on December 12, 2007, when USF&G served an answer to the Complaint. There are no counterclaims.

5. Discovery is closed. Over Illinois National's objection, the Court permitted USF&G to conduct expedited discovery. USF&G conducted discovery from February 25 to April 4, 2008, when discovery closed. On April 17, 2008, the Court reopened discovery to May 9, 2008, for the sole purpose of allowing USF&G to conduct a 30(b)(6) deposition of an Illinois National corporate representative. (USF&G chose not to conduct a deposition.) Discovery is now closed.

6. Illinois National's Motion for Summary Judgment is ready for decision. Illinois National served its Motion for Summary Judgment and supporting papers on April 7, 2008. USF&G's opposition papers (including the cross-motion for a stay) were served on June 16, 2008. Illinois National's reply papers were served on June 30, 2008. All papers were filed with the Court on June 30, 2008. Illinois National's summary judgment motion is now *sub judice*.

The Arbitration

7. The Demand for Arbitration was made upon Petrocelli on February 19, 2008. In contrast to the instant litigation, the Arbitration has just begun. No arbitration panel has been selected or approved; no conferences have been held; no scheduling order has been issued; no discovery has commenced; and no hearing dates have been set.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 30, 2008


YOAV M. GRIVER

527373.v1/10539-014/MXR

CERTIFICATE OF SERVICE

ANTHONY ROSARIO, hereby certifies pursuant to 28 U.S.C. 1746 and under penalty of perjury that on the 30th day of June, 2008, a true copy of the within **REPLY DECLARATION OF YOAV M. GRIVER** was served upon Ellen August, Esq., Goetz Fitzpatrick LLP, 1 Penn Plaza, New York, New York 10119-0002 on this date by hand delivery.

Dated: New York, New York
June 30, 2008



ANTHONY ROSARIO